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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/601,728	06/23/2003	Kenneth A. Steele	614359/82656	8738

7590

10/04/2004

Barnes & Thornburg  
600 One Summit Square  
Fort Wayne, IN 46802

EXAMINER
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MULLER, BRYAN R

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/601,728

Applicant(s)

STEELE ET AL.

Examiner

Bryan R Muller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14-26, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 7-13, 23 and 27-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 9/29/2003 was filed after the mailing date of the application on 6/23/2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

2. The abstract of the disclosure is objected to because the phrase "swing-arm clamp *may is* provided" in line 5 is unclear. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: The number "2" that is discussed in the specification is not shown in the drawings.

Appropriate correction is required.

### ***Claim Objections***

4. Claim 23 is objected to because of the following informalities: It is unclear what is being referred to as "the same" in line 6 of the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 16 and 17 both recite the limitation "the locating pin" in the first line of each claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-6, 14, 15, 18-22, 30 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Waller et al. ('502).
9. In reference to claims 1-6, Waller discloses a swing-arm clamp comprising: an actuator (24), a piston (21) movable in response to the actuator, a body (10) having the piston movable therein, a piston rod (16) located within the body and extending from the piston wherein the piston rod is movable through the body in response to movement by the piston along a longitudinal axis between first and second positions and wherein the piston rod is also movable about the longitudinal axis as it is movable along the longitudinal axis; an arm (17) attached to the piston rod being movable both along the longitudinal axis between the first and second positions, and about the longitudinal axis, a guide (32) and a locating member (30) movable in concert with the piston rod wherein the locating member engages the guide when the arm is located in the first position and

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separates from the guide when in the second position. Waller's invention is capable of a first, clamping and retracting position, wherein the locating member engages the guide and a second, releasing extended position, wherein the locating member separates from the guide. The guide in Waller's invention is attached to the body via the removable end cap or plug (12) that is normally retained in position at the base of the body by a circlip (13) (Col. 2, lines 5-6 and 56-57). Therefore, the guide and plug are both attachable to the body and adjustable with respect to the body because the cap may be removed from the body and may be replaced in at least one other position from the initial position shown.

10. In reference to claim 14, Waller discloses a swing-arm clamp as discussed supra wherein the locating member is indirectly attached to the arm in that the locating member is formed by a slot in one end of the piston rod and the arm is attached with a threaded fastener (18) to the other end of the piston rod.

11. In reference to claims 15 and 31, the invention of Waller that is discussed above also includes a shield that shrouds the piston rod when it is in the first position. The portion of Waller's arm (17) that makes contact with the piston rod acts as a shroud for the top, exposed portion of the piston rod while in the first position (clamping position).

12. In reference to claims 18-22, 31, Waller discloses the swing arm clamp as discussed supra that comprises an actuator (24), a body (10), a rod (16) disposed in the body that is movable between first and second positions longitudinally in response to the actuator (24) and rotatable with respect to its longitudinal movement, wherein the rod is at least partially extendable from the body, a clamp arm (17) attached to the rod,

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a shield, located adjacent to the clamp arm, that obscures the portion of the rod that is at extended from the body in the first position and a locating member (30) attached to the clamp that is engagable with a guide member (32) that is also attached to the clamp, wherein the combination of locating member and guide act as a means for absorbing force caused from backlash created as the swing-arm clamp clamps a workpiece.

15. Claims 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Vanistendael ('695).

16. Vanistendael discloses a swing-arm clamp comprising: a body (23), a piston assembly (28) disposed in the body and movable longitudinally with respect to the body, a cam member (33) having a camming surface disposed therein being in communication with the piston assembly to cause movement of the piston assembly askew of its longitudinal movement, a base (17), located in a bore disposed in the body, that is attached to the cam member. The position of the base is selectively maintained through a pair of fasteners (19) that, if removed would allow selective movement of the base which would affect the askew movement of the piston assembly.

***Allowable Subject Matter***

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17. Claims 7-13 and 27-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claims 16 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yonezawa ('079) discloses a swing-arm clamp with piston and piston rod as well as a shroud that covers a portion of the piston rod. Keaton ('511) discloses a swing-arm clamp that possesses a piston and piston rod as well a removable plug that is attached to the cam member that influences the rotational and longitudinal location of the piston and piston rod.

### ***Remarks***

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R Muller whose telephone number is (703)305-0487. The examiner can normally be reached on M-F.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail III can be reached on (703)308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BRM BRM  
9/21/2004



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